

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-250-E - ORDER NO. 2004-450
SEPTEMBER 28, 2004

IN RE: Application of Duke Power for Authorization)	ORDER APPROVING
under South Carolina Code Sections 58-27-)	EXPERIMENTAL RATE
860 and 58-27-870 to Implement an)	SCHEDULE RIDER
Experimental Load Retention Rate Schedule)	LR (SC)
(Rider LR) for its Industrial Customers.)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) on the request of Duke Power, a division of Duke Energy Corporation, (“Duke” or the “Company”) for approval of an Experimental Load Retention Rate Schedule (Experimental Rate Schedule Rider LR (SC)) for its industrial customers to apply for a period of one year beginning on October 1, 2004, and nominally ending on September 30, 2005 (the “Experimental Period”). Duke’s request was filed on August 25, 2004, pursuant to S.C. Code Ann. Sections 58-27-860 and 58-27-870 and applicable Rules and Regulations of the Commission.

After Duke’s Application was filed with this Commission, the Consumer Advocate for the State of South Carolina, through counsel, filed an objection on September 7, 2004, requesting, *inter alia*, that the Commission initiate an investigation of the proposal and of the Company’s earnings and order continuation of the Company’s existing Rider RR until the investigation was complete. Rider RR implemented a \$30 million rate decrement for all customers for one year as ordered by the Commission in its

Order No. 2003-573 issued on September 17, 2003, in Docket No. 2003-271-E. Rider RR became effective October 1, 2003, and expires September 30, 2004.

After discussions with Duke's counsel, the Consumer Advocate withdrew his objection to implementation of Experimental Rate Schedule Rider LR (SC) effective October 1, 2004. Duke communicated this to the Commission by letter dated September 8, 2004. The letter explained that the Consumer Advocate reserved all rights under his letter of September 7, 2004, but no longer objected to the immediate provisional implementation of Duke's Experimental Rate Schedule Rider LR (SC). Furthermore, in the letter of September 8, Duke agreed that the Commission could approve Duke's Experimental Rate Schedule Rider LR (SC), for a period of one year or until the Commission alters it in a rate proceeding, which ever occurs first.

According to its Application, Duke proposes to reduce by 0.110 cent per kWh of usage the base rates of all of its customers receiving service from the Company under Schedules I, IT, HP-X, OPT, DIV, MP or PG in establishments classified as "Manufacturing Industries" by the Standard Industrial Classification Manual published by the United States Government and where more than 50% of the electric energy consumption of such establishment is used for its manufacturing processes (referred to hereafter as "Industrial Customers"). Duke proposes that the Rider be effective for bills rendered on and after the first billing cycle in the Experimental Period.

According to Duke, the lingering effects of the economic downturn have resulted in significant losses of manufacturing jobs and business in the two Carolinas. This in turn has negatively affected Duke's sales of electricity in the two states.

For example, while in 1998, 52% of Duke's revenues came from large business customers, that ratio is now 42%. Further, Duke's revenue from textile industries is declining at a rate of 5.6% per year. Duke states that it has initiated various programs to stimulate new industrial development in its service area, including its Economic Development and Economic Redevelopment Riders that offer credits for customers locating new load on the Duke system. According to Duke, most of that effort has been aimed at encouraging new industrial investments, so Duke now seeks a means to also help established industries and save jobs by providing some relief to its existing industrial customers during the recovery period. Duke states that a healthy industrial base is good for all of its customers as well.

According to Duke's filing, the public policy of South Carolina is intensely focused on economic development and job creation, as well as on the retention of good paying jobs. Duke states that while there are encouraging signs that this focus is having a positive effect, the creation and retention of good paying jobs continues to be an important issue. Duke further states that it is clear that there is widespread concern over job retention and creation. According to Duke, this is a public policy concern because the loss of manufacturing jobs and the overall decline of the manufacturing sector have a significant adverse impact on the state's economy and competitiveness. Duke asserts that the proposed Experimental Rate Schedule Rider LR (SC) will provide a measure of relief to industry in the state.

According to Duke's filing, Duke's retail industrial sales make a significant contribution to its utility operating income and its overall rate of return on rate base. Duke believes that all of its customers benefit from that contribution and to the extent that economic conditions, including competition from foreign imports, reduce industrial activity in the state there will be a reduction in industrial electric sales, which if it continues could require a greater contribution from residential and commercial customers for Duke to earn an allowable return on its investment. According to Duke, the stimulation of industrial activity will benefit all of Duke's customers in the long run.

Duke's filing concludes that the proposed Rate Schedule Rider LR (SC) is an experimental rate, for a period of one year, involves no increase in rates, and does not require a determination of the entire rate structure of Duke and Duke's overall rate of return.

Based upon our review of Duke's proposed Experimental Rate Schedule Rider LR (SC) for its industrial customers, the Consumer Advocate's letter of September 7, 2004, and Duke's letter of September 8, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Experimental Rate Schedule Rider LR (SC) will reduce the base rates of all of Duke's customers receiving service from Duke under Schedules I, IT, HP-X, OPT, DIV, MP or PG in establishments classified as "Manufacturing Industries" by the Standard Industrial Classification Manual published by the United States Government and where more than 50% of the electric energy consumption of such establishment is

used for its manufacturing processes (“Industrial Customers”) by 0.110 cent per kWh of usage.

2. The Commission finds that the proposed Rate Schedule Rider LR (SC) involves no increase in rates and does not require a determination of the entire rate structure of Duke and Duke’s overall rate of return.

3. The Commission finds that the proposed Rate Schedule Rider LR (SC) is an experimental program pursuant to which rates will be reduced for certain customers which meet specified criteria. The experimental period is one year beginning on October 1, 2004, and ending on September 30, 2005, or until the Commission alters it in a rate proceeding, which ever occurs first.

4. The Commission finds that the proposed Rate Schedule Rider LR (SC) will serve the public interest in South Carolina by providing a measure of relief to industry in South Carolina.

5. The Commission finds that it is reasonable for the proposed Rate Schedule Rider LR (SC) to be effective for bills rendered on and after the first billing cycle in the Experimental Period.

CONCLUSIONS OF LAW

1. S.C. Code Ann. Section 58-27-870(F) permits the Commission to “allow rates or tariffs to be put into effect without notice and hearing upon order of the Commission when such rates or tariffs do not require a determination of the entire rate structure and overall rate of return, or when the rates or tariffs do not result in any rate

increase to the electrical utility, or when the rates and tariffs are for experimental purposes ...”

2. The Commission concludes that Duke’s proposed Rate Schedule Rider LR (SC) is an experimental program that is limited only to the stated class of customers meeting certain specific and defined criteria.

3. The Commission concludes that approval of Duke’s proposed Rate Schedule Rider LR (SC) will not require a determination of Duke’s entire rate structure and overall rate of return.

4. The Commission concludes that Duke’s proposed Rate Schedule Rider LR (SC) will provide benefits to Duke’s customers receiving service under Schedules I, IT, HP-X, OPT, DIV, MP or PG in establishments classified as “Manufacturing Industries” by the Standard Industrial Classification Manual published by the United States Government and where more than 50% of the electric energy consumption of such establishment is used for its manufacturing processes (“Industrial Customers”) by reducing their base rates by 0.110 cent per kWh of usage.

5. In approving this Rider, the Commission concludes that Duke shall track any resulting revenue shortfall, or foregone revenues, incurred in offering this experimental program. Tracking of information, such as revenue shortfalls or foregone revenues, will assist both Duke and the Commission in properly evaluating this program. The Commission will consider any revenue shortfalls or foregone revenues, and the appropriate ratemaking treatment to be accorded to such, in future rate proceedings, rate reviews, or earnings reviews as determined by this Commission.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. Duke's proposed Rate Schedule Rider LR (SC) is approved for a period of one year or until the Commission alters such rate schedule in a rate proceeding, which ever occurs first.
2. Duke shall track any resulting revenue shortfall, or foregone revenues, incurred in offering this experimental program.
3. The Commission will consider any revenue shortfalls or foregone revenues, and the appropriate ratemaking treatment to be accorded to such, in future rate proceedings, rate reviews, or earnings reviews as determined by this Commission.
4. Duke shall file with this Commission ten (10) copies of its proposed Rate Schedule Rider LR (SC), as modified herein, within ten (10) days after receipt of this Order.
5. This Order shall be effective upon the date of issuance.
6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman
(SEAL)